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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Case No.:

ISABEL ALVAREZ,
*individually and on behalf of all
others similarly situated,*

CLASS ACTION

Plaintiff,

JURY TRIAL DEMANDED

v.

SKIMS BODY, INC.,

Defendant.

/

CLASS ACTION COMPLAINT

Plaintiff Isabel Alvarez (“Plaintiff”) brings this class action against Defendant Skims Body, Inc. (“Defendant”) and alleges as follows upon personal knowledge as to Plaintiff and Plaintiff’s own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by Plaintiff’s attorneys.

NATURE OF THE ACTION

1. This is a putative class action pursuant to the Telephone Consumer Protection Act, 47 U.S.C. §§ 227, *et seq.* (the “TCPA”).

2. To promote its goods and services, Defendant engages in telemarketing text messages at unlawful times.

3. Through this action, Plaintiff seeks injunctive relief to halt Defendant's unlawful conduct which has resulted in intrusion into the peace and quiet in a realm that is private and personal to Plaintiff and the Class members. Plaintiff also seeks statutory damages on behalf of themselves and members of the Class, and any other available legal or equitable remedies.

4. Plaintiff is a natural person entitled to bring this action under the TCPA, and a citizen and resident of California.

6. Unless otherwise indicated, the use of Defendant's name in this Complaint includes all agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, vendors, and insurers of Defendant.

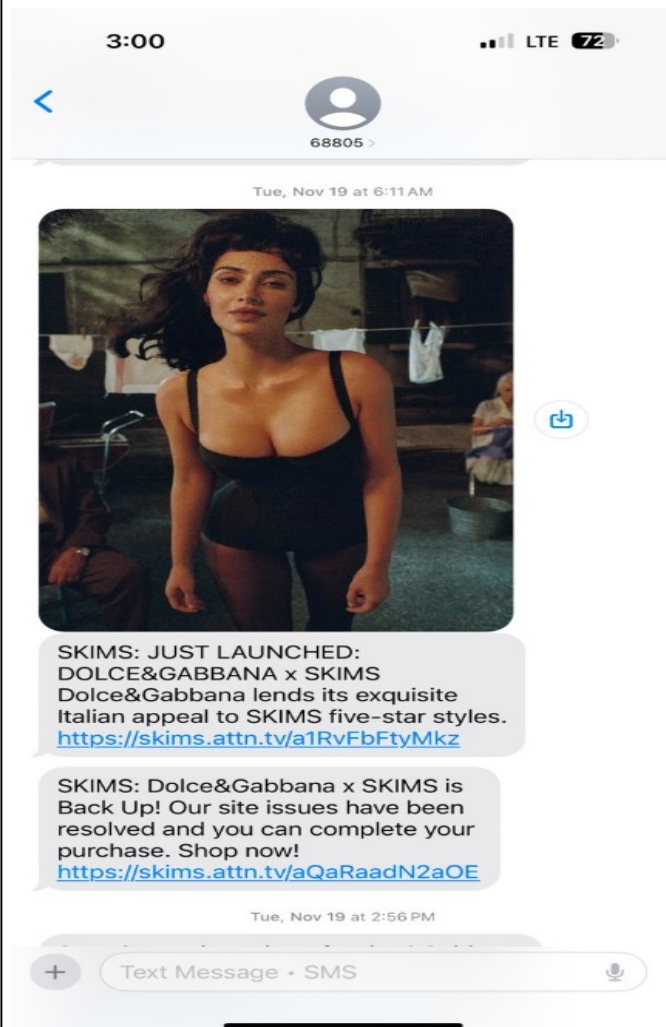
7. This Court has federal question subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331, as the action arises under the TCPA.

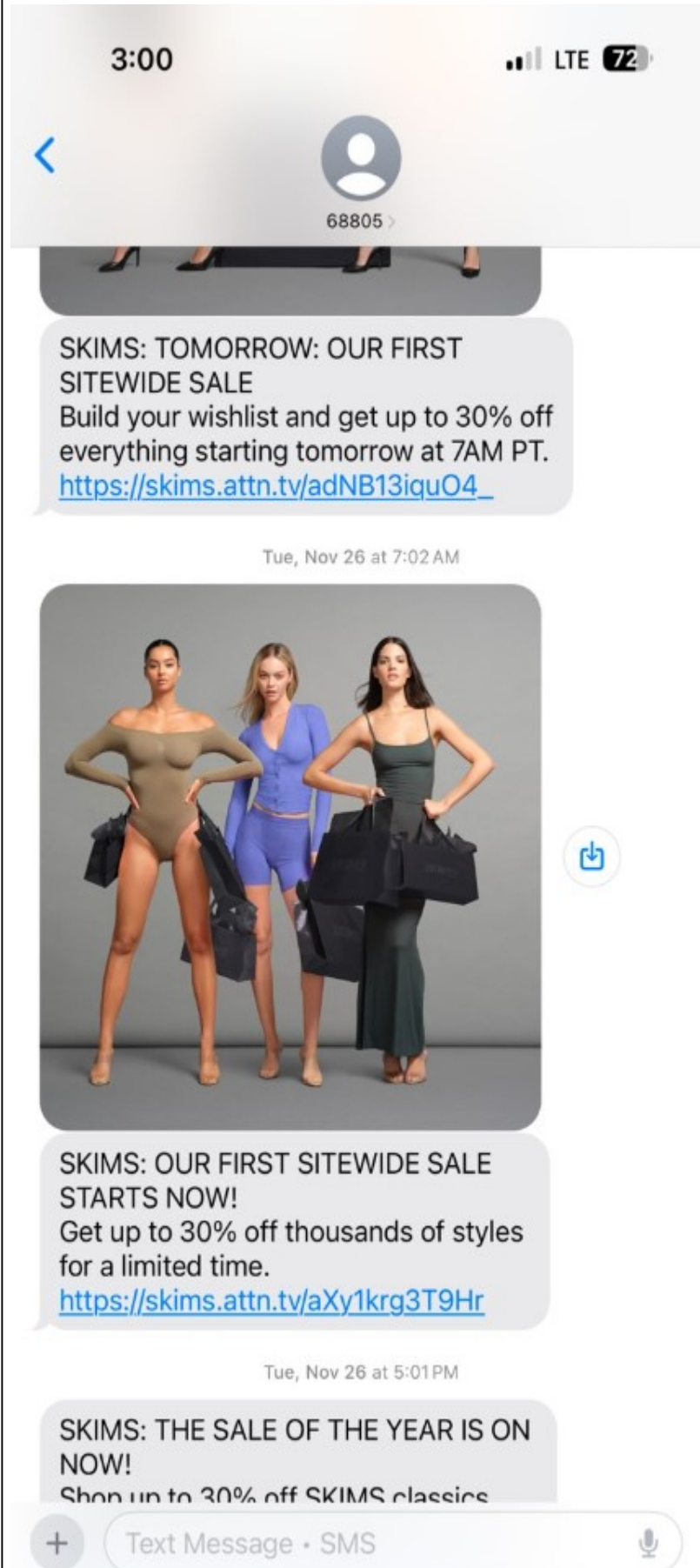
FACTS

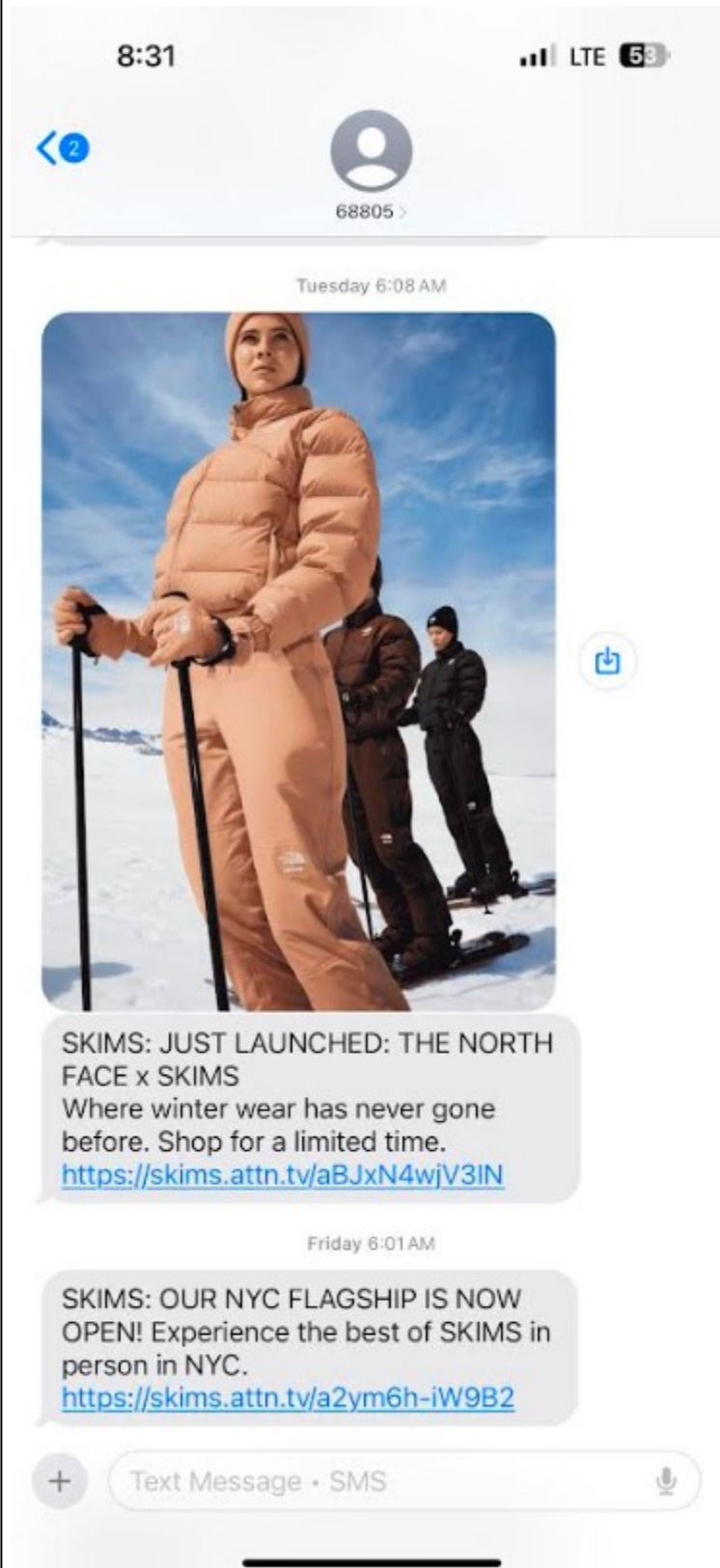
1 concerning the need to protect residential telephone subscribers' privacy rights to avoid receiving
2 telephone solicitations to which they object." 47 U.S.C. § 227(c)(1).

3 10. The TCPA and implementing regulations prohibit the initiation of telephone
4 solicitations to residential telephone subscribers before 8 am and after 9 pm and similarly provides
5 a private right of action against any entity that makes those telephone solicitations, or "on whose
6 behalf" such telephone solicitations are made. 47 U.S.C. § 227(c)(5); 47 C.F.R. § 64.1200(c)(1).

7 11. On or about November 19, 2024, November 26, 2024, December 10, 2024, at 6:08
8 AM and December 13, 2024, at 6:01 AM, Defendant sent text message solicitations to
9 Plaintiff's cellular telephone as depicted below:
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11







1 12. As displayed by the above screenshots, the telephone solicitations were initiated at
2 6:01 AM, 6:08 AM, 6:11 AM and 7: 08 AM in Plaintiff's time zone.

3 13. Overall, between November 19, 2024, and December 13, 2024, Defendant caused
4 (8) eight marketing text messages to be transmitted to Plaintiff's cellular telephone number before
5 8 am and after 9 pm.
6

7 14. As demonstrated by the above screenshots, the purpose of Defendant's
8 telephonic solicitations was to advertise, promote, and/or market Defendant's property, goods,
9 and/or services.
10

11 15. Plaintiff is the regular user of the telephone number that received the above
12 solicitations.

13 16. Plaintiff utilizes the cellular telephone number that received Defendant's
14 telephone solicitations for personal purposes and the number is Plaintiff's residential
15 telephone line and primary means of reaching Plaintiff at home.
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17 17. Upon information and belief, Defendant maintains and/or has access to
18 outbound transmission reports for all telephone solicitations advertising/promoting its services
19 and goods. These reports show the dates, times, target telephone numbers, and content of each
20 telephone solicitation made to Plaintiff and the Class members.
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22 18. Plaintiff never signed any type of authorization permitting or allowing
23 Defendant to send them telephone solicitations before 8 am or after 9 pm.

24 19. Defendant's unlawful conduct resulted in intrusion into the peace and quiet in a
25 realm that is private and personal to Plaintiff and the Class members.
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1 **CLASS ALLEGATIONS**

2 **PROPOSED CLASS**

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4 20. Plaintiff brings this lawsuit as a class action on behalf of Plaintiff individually and
5 on behalf of all other similarly situated persons pursuant to Fed. R. Civ. P. 23. The class that
6 Plaintiff seeks to represent (the “Class”) is defined as:

7 **All persons in the United States who from four years prior to**
8 **the filing of this action through the date of class certification (1)**
9 **Defendant, or anyone on Defendant’s behalf, (2) placed more**
10 **than one marketing text message within any 12-month period;**
11 **(3) where such marketing text messages were initiated before**
12 **the hour of 8 a.m. or after 9 p.m. (local time at the texted**
13 **party’s location).**

14 21. Plaintiff reserves the right to modify the Class definition as warranted as facts are
15 learned in further investigation and discovery.

16 22. Defendant and their employees or agents are excluded from the Class. Plaintiff
17 does not know the number of members in the Class but believes Class Members’ number in the
18 several thousands, if not more.

19 **NUMEROSITY**

20 23. Upon information and belief, Defendant has placed violative text messages to
21 telephone numbers belonging to at least 50 persons. The members of the Class, therefore, are
22 believed to be so numerous that joinder of all members is impracticable.

23 24. The exact number and identities of Class Members are unknown at this time and
24 can be ascertained only through discovery. Identification of Class Members is a matter capable of
25 ministerial determination from Defendant’s records.

26 **COMMON QUESTIONS OF LAW AND FACT**

27 25. There are numerous questions of law and fact common to the Class which
28

1 predominate over any questions affecting only individual members of the Class. Among the
2 questions of law and fact common to the Class are:

3 (a) Whether Defendant initiated solicitation text messages to Plaintiff and the Class
4 members before 8 a.m. or after 9 p.m.

6 (b) Whether Defendant is liable for damages, and the amount of such damages.

7 26. The common questions in this case are capable of having common answers. If
8 Plaintiff's claim that Defendant routinely transmits telephone solicitations without consent is
9 accurate, Plaintiff and the Class members will have identical claims capable of being
10 efficiently adjudicated and administered in this case.

12 **TYPICALITY**

13 27. Plaintiff's claims are typical of the claims of Class members, as they are all based
14 on the same factual and legal theories.

16 **PROTECTING THE INTERESTS OF CLASS MEMBERS**

17 28. Plaintiff is a representative who will fully and adequately assert and protect the
18 interests of the Class and has retained competent counsel. Accordingly, Plaintiff is an adequate
19 representative and will fairly and adequately protect the interests of the Class.

20 **SUPERIORITY**

21 29. A class action is superior to all other available methods for the fair and efficient
22 adjudication of this lawsuit because individual litigation of the claims of all members of the Class is
23 economically unfeasible and procedurally impracticable. While the aggregate damages sustained
24 by the Class are in the millions of dollars, the individual damages incurred by each member of the
25 Class resulting from Defendant wrongful conduct are too small to warrant the expense of
26 individual lawsuits. The likelihood of individual Class members prosecuting their own separate
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1 claims is remote, and, even if every member of the Class could afford individual litigation, the
2 court system would be unduly burdened by individual litigation of such cases.

3 30. The prosecution of separate actions by members of the Class would create a risk of
4 establishing inconsistent rulings and/or incompatible standards of conduct for Defendant. For
5 example, one court might enjoin Defendant from performing the challenged acts, whereas another
6 may not. Additionally, individual actions may be dispositive of the interests of the Class, although
7 certain Class members are not parties to such actions.
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9
10 **COUNT I**
11 **VIOLATIONS OF 47 U.S.C. § 227(c) AND 64.1200(c)**
12 **(On Behalf of Plaintiff and the Class)**

13 31. Plaintiff re-alleges and incorporates the allegations set forth in paragraphs 1-30 as if
14 fully set forth herein.

15 32. The TCPA's implementing regulation, 47 C.F.R. § 64.1200(c), provides in
16 pertinent part that "[n]o person or entity shall initiate any telephone solicitation" to "[a]ny
17 residential telephone subscriber before the hour of 8 a.m. or after 9 p.m. (local time at the texted
18 party's location)."

19 33. Per 47 C.F.R. § 64.1200(e), § 64.1200(c) is "applicable to any person or entity
20 making telephone solicitations or telemarketing calls to wireless telephone numbers."

21 34. Any "person who has received more than one telephone call within any 12-month
22 period by or on behalf of the same entity in violation of the regulations prescribed under this
23 subsection may" may bring a private action based on a violation of said regulations, which were
24 promulgated to protect telephone subscribers' privacy rights to avoid receiving telephone
25 solicitations to which they object. 47 U.S.C. § 227(c).
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36. Defendant violated 47 U.S.C. § 227(c)(5) because Plaintiff and Class members received more than one violative telephone solicitation in a 12-month period from Defendant in violation of 47 C.F.R. § 64.1200.

38. As a result of Defendant's knowing or willful conduct, Plaintiff and the Class members are entitled to an award of \$1,500.00 in statutory damages per violation.

WHEREFORE, Plaintiff, on behalf of themselves and members of the Class, prays
for the following relief:

JURY DEMAND

Plaintiff and members of the Class hereby demand a trial by jury.

DOCUMENT PRESERVATION DEMAND

Plaintiff demands that Defendant take affirmative steps to preserve all records, lists, electronic databases or other itemization of telephone numbers associated with Defendant and the text messages as alleged herein.

Date: December 16, 2024.

Respectfully Submitted,

/s/ Gerald D. Lane, Jr.

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